

NOTICE OF *EX PARTE* APPLICATION

PLEASE TAKE NOTICE that pursuant to Local Rules 6-1 and 7-19, Lead Plaintiffs Jihong Wang, Qi Li, and Les Akio Omori (“Lead Plaintiffs”) hereby apply to the Court, the Honorable Percy Anderson presiding, for an order Pursuant to 6(b)(1) of the Federal Rule of Civil Procedure, extending time to file an amended complaint from October 9, 2015, to October 18, 2015. The motion is supported by the Declaration of Laurence M. Rosen (“Rosen Decl.” or “Rosen Declaration”) submitted herewith, and the memorandum of points and authorities, below. The basis for the motion is that Plaintiffs’ ongoing additional investigation, which is taking place in China, will be hampered by a Chinese holiday taking place between October 1 and October 7, during which Plaintiffs’ investigators and/or their potential sources will not be available. Rosen Decl. ¶¶ 2-3.

This application is based on this notice, the attached Memorandum of Points and Authorities, the Declaration of Laurence M. Rosen in Support Thereof, all pleadings and records on file with the Court in this case, and such further matters as may be presented to the Court.

MEMORANDUM OF POINTS AND AUTHORITIES

On September 14, 2015, the Court appointed Lead Plaintiffs and granted them until October 9, 2015, to file an amended complaint. Dkt. # 31, at 5-6.

Under Federal Rule of Civil Procedure 6(b)(1), typically, an extension of time is “granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.” *Id.*, quoting *4B Charles Alan Wright & Arthur R. Miller*, Federal Practice and Procedure § 1165 (3d ed. 2004).

The Private Securities Litigation Reform Act (the “PSLRA”) imposes heightened pleading requirements. *Ansell v. Laikin*, No. CV 10-9292 PA AGRX, 2011 WL 3274019, at *2 (C.D. Cal. Aug. 1, 2011) (citing, among others, *Tellabs*,

1 *Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 321, 127 S.Ct. 2499, 168
 2 L.Ed.2d 179 (2007)). To meet these heightened pleading burdens, plaintiffs
 3 typically conduct on-the-ground investigations. In this case, Plaintiffs retained an
 4 investigator in the People's Republic of China ("China") to investigate their case.
 5 Rosen Decl. ¶ 2.

6 The week of October 1-7 is the Chinese National Day Golden Week, a
 7 holiday during which, as in Chinese New Year, most employees do not work and
 8 many travel to see their families. Rosen Decl. ¶ 3. Plaintiffs' investigator has
 9 advised that it will be difficult if not impossible to conduct an investigation
 10 during the Golden Week. *Id.*

11 Plaintiffs respectfully request a one week two day extension of their time to
 12 file an amended complaint to account for the Golden Week. Rosen Decl. ¶ 5. If
 13 the Court grants Plaintiffs' request, the amended complaint will be due on
 14 October 18, 2015. *Id.* This is the first request for an extension of time to file an
 15 amended complaint, though the Court previously granted in part Plaintiffs'
 16 application for a briefing schedule on their amended complaint and Defendants'
 17 response thereto. *Id.*

18 "Plaintiffs request relief through an *ex parte* application because there is
 19 not enough time for a regularly-noticed motion to be heard." Courts have
 20 recognized that good cause exists for *ex parte* relief on certain routine matters
 21 that cannot be obtained through a noticed motion. *Horne v. Wells Fargo Bank,*
 22 *N.A.*, 969 F. Supp. 2d 1203, 1205 (C.D. Cal. 2013). This procedure has been used
 23 previously to grant extensions of time for filing an amended complaint. *In re*
 24 *Maxwell Technologies, Inc. Derivative Litig.*, No. 13CV966 BEN RBB, 2014 WL
 25 2919297, at *2 (S.D. Cal. June 26, 2014); *Dillman v. Tuolumne Cnty.*, No. 1:13-
 26 CV-00404-LJO, 2014 WL 228582, at *3 (E.D. Cal. Jan. 21, 2014).

1 None of the defendants have appeared or contacted Plaintiffs, but Plaintiffs
2 have sent this Application via Federal Express overnight to the registered agent of
3 defendant China Finance Online Co., Ltd., namely Corporate Agents, Inc., 2711
4 Centerville Road, Wilmington, DE, 19808. Rosen Decl. ¶¶ 6-7.

5
6
7
8 Dated: September 21, 2015 Respectfully submitted,

9
10 **THE ROSEN LAW FIRM, P.A.**

11 /s/ Laurence M. Rosen
12 Laurence M. Rosen, Esq. (SBN 219683)
13 355 South Grand Avenue, Suite 2450
14 Los Angeles, CA 90071
15 Telephone: (213) 785-2610
16 Facsimile: (213) 226-4684
17 Email: lrosen@rosenlegal.com
18 Lead Counsel for Plaintiff

19 and

20 **GOLDBERG LAW PC**
21 Michael Goldberg, Esq. (SBN 188689)
22 13650 Marina Pointe Dr. Suite 1404
23 Marina Del Rey, CA 90292
24 Phone: 1800-977-7401
25 Fax: 1800-536-0065

26 Additional Counsel for Plaintiff
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Laurence M. Rosen, hereby declare under penalty of perjury as follows:

I am the managing attorney of the Rosen Law Firm, P.A., with offices at 355 South Grand Avenue, Suite 2450, Los Angeles, CA 90071. I am over the age of eighteen.

On September 21, 2015, I electronically filed the following ***EX PARTE APPLICATION FOR EXTENSION OF TIME TO FILE AMENDED COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF*** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

Executed on September 21, 2015

/s/ Laurence M. Rosen
Laurence M. Rosen